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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,747	09/22/2003	Craig M. Carpenter	10983.0006.00000	1903

22852 7590 03/30/2010  
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
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WASHINGTON, DC 20001-4413

EXAMINER
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RYCKMAN, MELISSA K

ART UNIT	PAPER NUMBER
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3773

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03/30/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/667,747	<b>Applicant(s)</b> CARPENTER ET AL.	
	<b>Examiner</b> MELISSA RYCKMAN	<b>Art Unit</b> 3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-11,14-16,18-25,27-29 and 31-37 is/are pending in the application.
- 4a) Of the above claim(s) 14-16,18-25,27-29 and 31-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11 and 35-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is in response to claims filed 12/2/09.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Dormandy, Jr. et al. (U.S. Patent No. 5,746,734).

Dormandy teaches a front-end loader for a percutaneous transluminal system for an intracardiac device, said front-end loaded comprising:

- a proximal portion (51) comprising a proximal end, a distal end (near 46, Fig. 5), and an expanded lumen positioned therebetween, said expanded lumen tapering towards said distal end of said proximal portion (Fig. 5)
- a distal portion (47), comprising a tube comprising a proximal end, a distal end, a lumen extending therethrough (Fig. 5), said lumen of said distal portion being co-extensive with said expanded lumen of said proximal portion
- said distal end of said distal portion comprises means for reducing air introduction (distal face near 49) into a patients' cardiovascular system when said percutaneous transluminal system is in use during delivery of

said intracardiac device (coil can be used as intracardiac device) from said lumen of said distal portion

- .the means for reducing air introduction comprises a beveled edge at said distal end of said distal portion (distal end near 49)
- the expanded lumen is conically shaped (Fig. 5)
- said means for reducing air introduction (tip near 49, Fig. 5) receives said intracardiac device to withdraw said intracardiac device from the patient's body (49 receives the intracardiac device, when in the body the physician can remove the entire device with the intracardiac device still in the delivery apparatus)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dormandy, Jr. et al. (U.S. Patent No. 5,746,734) as applied to claim 2 above, and further in view of Gordon et al. (U.S. Patent No. 5,928,246).

Dormandy teaches the claimed invention but is silent regarding:

- said beveled edge is chamfered at least partially around its perimeter

Art Unit: 3773

- the said chamfered rim comprising an outer rim and an inner rim, said inner rim positioned proximal to said outer rim

However, Gordon teaches a chamfered beveled edge (Fig. 2) with inner and outer rims (Fig. 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the specified edge, as this aids in delivery of the device (Gordon col. 3, ll. 65).

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dormandy, Jr. et al. (U.S. Patent No. 5,746,734) as applied to claim 1 above, and further in view of Bourne et al. (U.S. Patent No. 5,486,193).

Dormandy teaches an intracardiac device but does not teach an intracardiac occluder, however Bourne teaches the intracardiac device comprising an intracardiac occluder (202). The occluder is capable of being used for treating an atrial septal defect, a ventricular septal defect, patent ductus arteriosus, and a patent foramen ovale. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the device of Bourne with the delivery device of Dormandy as the device of Bourne is advantageous for different uses.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA RYCKMAN whose telephone number is (571)272-9969. The examiner can normally be reached on Monday thru Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571)-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3773

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MKR

/Melissa Ryckman/  
Examiner, Art Unit 3773

/Julian W. Woo/  
Primary Examiner, Art Unit 3773